

# STATE OF WISCONSIN

# Senate Journal

## Ninety–Eighth Regular Session

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FRIDAY, November 9, 2007

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The Chief Clerk makes the following entries under the above date.

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### CHIEF CLERK'S ENTRIES

#### SENATE ENROLLED PROPOSALS

The Chief Clerk records:

**Senate Bill 186**

**Senate Bill 214**

**Senate Bill 226**

**Senate Joint Resolution 58**

Report correctly enrolled on 11–9–2007.

#### BILLS PRESENTED TO THE GOVERNOR

The Chief Clerk records:

**Senate Bill 177**

Presented to the Governor on 11–9–2007.

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### INTRODUCTION, FIRST READING, AND REFERENCE OF PROPOSALS; REFERENCE OF APPOINTMENTS

Read and referred:

#### **Senate Joint Resolution 68**

Relating to: senate approval of certain legally enforceable agreements (first consideration).

By Senators Kanavas, Lazich, A. Lasee, Darling, Grothman and Leibham; cosponsored by Representatives Kleefisch, Albers, J. Ott, Zipperer, LeMahieu, Gunderson, Nass, Petrowski, Vos, Kramer, Townsend, Vukmir and Owens.

To committee on **Ethics Reform and Government Operations**.

Read first time and referred:

#### **Senate Bill 314**

Relating to: accumulating vacation leave for the purpose of termination or sabbatical leave for state employees (suggested as remedial legislation by the Office of State Employment Relations).

By Law Revision Committee.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 315**

Relating to: disciplinary actions against credential holders (suggested as remedial legislation by the Department of Regulation and Licensing).

By Law Revision Committee.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 316**

Relating to: the residential facilities council (suggested as remedial legislation by the Department of Commerce).

By Law Revision Committee.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 317**

Relating to: eliminating the Petroleum Storage Environmental Cleanup Council (suggested as remedial legislation by the Department of Commerce).

By Law Revision Committee.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 318**

Relating to: duties of the director of the Office of State Employment Relations (suggested as remedial legislation by the Office of State Employment Relations).

By Law Revision Committee.

To committee on **Ethics Reform and Government Operations**.

#### **Senate Bill 319**

Relating to: providing the jury in civil actions with an explanation regarding the results of their findings.

By Senators Taylor and Decker; cosponsored by Representatives Grigsby, A. Williams, Young, A. Ott, Zepnick and Hintz.

To committee on **Judiciary, Corrections, and Housing**.

#### **Senate Bill 320**

Relating to: refunds of overcharges by commercial mobile radio service providers, actions against commercial mobile radio service providers that fail to make timely refunds, and providing a penalty.

By Senators Lassa, Coggs and Vinehout; cosponsored by Representatives Musser, Albers, Berceau, Boyle, Cullen, Grigsby, Hahn, Hebl, Nass, Schneider, Sinicki, A. Williams and Zepnick.

To committee on **Small Business, Emergency Preparedness, Workforce Development, Technical Colleges and Consumer Protection**.

#### **Senate Bill 321**

Relating to: criteria for determining indigency for purposes of representation by the State Public Defender and requiring the exercise of rule-making authority.

By Senators Sullivan, Coggs, Breske, Lassa, Olsen, Plale, Risser, Roessler, Taylor, Vinehout and Erpenbach; cosponsored

by Representatives Bies, Hintz, Grigsby, Seidel, Albers, Berceau, Cullen, Hines, Hraychuck, Jeskewitz, Kessler, Kramer, Kreuser, Mason, Molepske, Montgomery, Musser, Nelson, Parisi, Pocan, Pope–Roberts, Shilling, Soletski, Staskunas, Tauchen, Townsend, Turner, Van Roy and Wood.

To committee on **Judiciary, Corrections, and Housing**.

## PETITIONS AND COMMUNICATIONS

### State of Wisconsin Senate

November 9, 2007

The Honorable, The Senate:

Pursuant to Senate Rule 75, I am writing to you to inform you of how I would have voted on the few votes I missed yesterday.

#### Assembly Bill 207

Rejection of SA 19 – Aye

Rejection of SA 20 – Aye

Adoption of SA 20 – Nay

Reconsider adoption of SA 20 – Nay

Adoption of SA 21 – Aye

Refer to Committee – Nay

Concurrence – Aye

Please contact me if you have any questions pertaining to this matter.

With kindest regards,  
DALE W. SCHULTZ

### State of Wisconsin Department of Health and Family Services

October 26, 2007

The Honorable, The Senate:

Wisconsin State Statute 13.172 (2) directs the Department of Health and Family Services to submit an annual report to the Legislature regarding information on pharmacies and pharmacists that discontinue participation as a certified provider of medical assistance (MA). The mandate also requires the Department to report whether pharmacists comply with the MA program's deductible and co-payment requirements.

A comparison of MA certified pharmacy providers in SFY 2006 and SFY 2007 indicates 65 new pharmacies were certified as MA providers in SFY 2007. In addition, 21 Wisconsin pharmacies' or pharmacists' MA certification ended in SFY 2007. Twenty of those pharmacies no longer met certification requirements; many because their business closed altogether. One provider chose to discontinue their MA certification. There were 25 out-of-state pharmacies or pharmacists that were no longer certified as providers of MA in SFY 2007.

The Department of Health and Family Services has not received any complaints that pharmacists have incorrectly charged MA participants a deductible or co-payment.

With warm regards,  
KEVIN R. HAYDEN  
Secretary

### State of Wisconsin Ethics Board

October 30, 2007

The Honorable, The Senate:

The following lobbyists have been authorized to act on behalf of the organizations set opposite their names.

For more detailed information about these lobbyists and organizations and a complete list of organizations and people authorized to lobby the 2007–2008 session of the legislature, visit the Ethics Board's web site at <http://ethics.state.wi.us/>

Sellen, Jayme

Brown County

Also available from the Wisconsin Ethics Board are reports identifying the amount and value of time state agencies have spent to affect legislative action and reports of expenditures for lobbying activities filed by organizations that employ lobbyists.

Sincerely,  
R. ROTH JUDD  
Executive Director

### State of Wisconsin Department of Administration

October 31, 2007

The Honorable, The Legislature:

This report is transmitted as required by s. 20.002(11)(f), Wisconsin Statutes, (for distribution to the appropriate standing committees under s. 13.172(3), Wisconsin Statutes) and confirms that the Department of Administration has found it necessary to exercise the "temporary reallocation of balances" authority provided by this section in order to meet payment responsibilities and cover resulting negative cash balances during the month of September 2007.

On September 13, 2007, the **Dry Cleaner Environmental Response Fund** cash balance closed at a negative \$12 thousand. This negative balance continued through September 30, 2007, when the fund's cash balance closed at a negative \$55 thousand. The **Dry Cleaner Environmental Response Fund** cash balance reached its intra month low of a negative \$56 thousand on September 17, 2007. The negative balance was due to the difference in the timing of revenues and expenditures.

On September 1, 2007, the **Wisconsin Health Education Loan Repayment Fund** cash balance closed at a negative \$2 thousand. This negative balance continued through September 30, 2007, when the fund's cash balance closed at a negative \$2 thousand. The negative balance was due to the difference in the timing of revenues and expenditures.

The Dry Cleaner Environmental Response Fund and Wisconsin Health Education Loan Repayment Fund shortfalls were not in excess of the statutory interfund borrowing limitations and did not exceed the balances of the funds available for interfund borrowing.

The distribution of interest earnings to investment pool participants is based on the average daily balance in the pool and each fund's share. Therefore, the monthly calculation by the State Controller's Office will automatically reflect the use of these temporary reallocations of balance authority, and as a result, the funds requiring the use of the authority will effectively bear the interest cost.

Referred to joint committee on **Finance**.

Sincerely,  
MICHAEL L. MORGAN  
Secretary

### State of Wisconsin College Savings Program Board

October 31, 2007

The Honorable, The Senate:

We are pleased to submit the 2006-2007 College Savings Program Annual Report. This tenth annual report covers the **EdVest** and **tomorrow's scholar** plans, highlighting the key developments in the program over the past fiscal year, with summaries of the financial statements. The program

experienced significant growth and success in FY07. As of June 30, we were helping to meet the college savings needs of over 228,000 current and future students and families nationwide with over \$2.1 billion in assets under management.

Highlights for the year:

- In January 2007 a series of portfolio reallocations approved by the College Savings Program Board were implemented, increasing portfolio diversification and reducing expenses by up to 0.14% for an annual savings to investors of \$733,000.
- In July 2006 we joined the SAGE Scholars program to offer EdVest and tomorrow's scholar account owners the opportunity to earn Tuition Rewards points each quarter, based on the balance in their 529 accounts. Each point equals one dollar in guaranteed undergraduate tuition discounts at participating private schools nationwide. Accounts can earn a maximum value of one year's tuition.
- Total program fees now include some of the lowest among all "529" college savings plans nationally.

The College Savings Program Board and staff look forward to continued growth with quality service to participants in this exciting program. We're sending a cover letter regarding this report to all state legislators and will post the report on our website [www.ost.state.wi.us/home/edvest.html](http://www.ost.state.wi.us/home/edvest.html). If you have any questions regarding the Annual Report, please contact Marty Olle at 264-7886.

Sincerely,  
**SENATOR ALBERTA DARLING**  
 Chair, College Savings Program Board

**STATE TREASURER DAWN MARIE SASS**  
 Member, College Savings Program Board

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## REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

### **Senate Clearinghouse Rule 07-057**

Relating to the identification of gifted and talented pupils.  
 Submitted by Department of Public Instruction.  
 Report received from Agency, November 5, 2007.  
 Referred to committee on **Education**, November 9, 2007.

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## MESSAGES FROM THE ASSEMBLY CONSIDERED

### **Assembly Bill 33**

Relating to: the distribution of the penalty for converting agricultural land.

By Representatives Owens, Albers, Hahn, Gunderson, Mursau and Townsend.

Read first time and referred to committee on **Agriculture and Higher Education**.

### **Assembly Bill 89**

Relating to: operating an aircraft recklessly or under the influence of an intoxicant and providing a penalty and granting rule-making authority.

By Representatives Mursau, Krusick, Berceau, Hines, Kerkman, Molepske, A. Ott, J. Ott, Pocan, Sinicki, Stone, Townsend, Zepnick and Gunderson; cosponsored by Senators

Plale, Coggs, Lassa, Olsen, Risser, Roessler, Schultz and Wirsch.

Read first time and referred to committee on **Transportation and Tourism**.

### **Assembly Bill 224**

Relating to: immunity from liability for a health care provider, health care facility, or employee of a health care provider or health care facility that, in good faith, reports a violation of the law or of a clinical or ethical standard by another health care provider, health care facility, or employee of a health care provider or health care facility.

By Representatives Pridemore, Townsend, Hines, Owens, Hahn, Musser, Albers, Gunderson and J. Ott.

Read first time and referred to committee on **Judiciary, Corrections, and Housing**.

### **Assembly Bill 228**

Relating to: the transfer of certain fish and game licenses and permits to minors.

By Representatives Gunderson, Bies, Albers, Ballweg, Hraychuck, LeMahieu, Lothian, Musser, A. Ott, Petrowski, Sheridan, Vruwink and M. Williams; cosponsored by Senators Decker, Grothman, Kedzie, Miller and Schultz.

Read first time and referred to committee on **Environment and Natural Resources**.

### **Assembly Bill 248**

Relating to: powers and duties of part-time court commissioners.

By Representatives Molepske, Ballweg, Hahn, Berceau, Cullen and Mursau; cosponsored by Senators Lassa and Grothman.

Read first time and referred to committee on **Judiciary, Corrections, and Housing**.

### **Assembly Bill 263**

Relating to: state agency status coverage under the Volunteer Health Care Provider Program regardless of applicable health care liability insurance coverage.

By Representatives Wieckert, Wasserman, M. Williams, Sinicki, Jeskewitz, Staskunas, Hahn, Townsend, Musser, Owens, Hines, Bies, Albers, Kaufert, Petrowski, Benedict, Fields, Berceau, Gunderson, Vos, A. Ott and Ballweg; cosponsored by Senators Kreitlow, Roessler, Darling and Lazich.

Read first time and referred to committee on **Health, Human Services, Insurance, and Job Creation**.

### **Assembly Bill 427**

Relating to: voluntary and informed consent to an abortion and requiring provision of information on domestic abuse services.

By Representatives Gundrum, Strachota, Montgomery, Kleefisch, Albers, Nygren, Hahn, Gottlieb, Petrowski, Roth, Zipperer, Gunderson, Ziegelbauer, Kerkman, Pridemore, Ballweg, Bies, Honadel, Hines, Mursau, Vukmir, Van Roy, LeMahieu, Owens, Petersen, Vos and A. Ott; cosponsored by Senators Breske, Lazich, Plale, A. Lasee, Darling, Roessler, Cowles, Kedzie, Kanavas, Leibham, Grothman and Schultz.

Read first time and referred to committee on **Health, Human Services, Insurance, and Job Creation**.

### **Assembly Bill 442**

Relating to: special distinguishing registration plates associated with Donate Life Wisconsin, the promotion of organ and tissue donation in this state, granting rule-making authority, and making appropriations.

By Representatives Ballweg, Berceau, Davis, Grigsby, Mursau, A. Ott, Staskunas and Ziegelbauer; cosponsored by Senators Taylor, Cowles, Erpenbach, Olsen, Plale, Schultz and Wirch.

Read first time and referred to committee on **Transportation and Tourism.**

**Assembly Bill 502**

Relating to: furnishing or using certain consumer loan information to make solicitations and providing a penalty.

By Representatives Newcomer, Kleefisch, Albers,

Ballweg, Berceau, Bies, Davis, Friske, Hahn, Hintz, Hixson, Honadel, Jeskewitz, Kramer, LeMahieu, Lothian, Mason, Montgomery, Musser, Parisi, Petersen, Petrowski, Richards, Roth, Sinicki, Staskunas, Townsend, A. Williams, Wood, Zepnick and Pocan; cosponsored by Senators Sullivan, Kreitlow, Coggs, Darling, Erpenbach, Lehman, Vinehout, Olsen, Plale, Hansen, Kapanke, Grothman, Leibham and Lassa.

Read first time and referred to committee on **Veterans and Military Affairs, Biotechnology and Financial Institutions.**